IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 10907 of 2007(W)

PETITIONER:

M/S. KUNHIKANNAN JEWELLERY,
GOLD HOUSE, KANNUR - REPRESENTED BY ITS
MANAGING PARTNER SHRI. C.V.RAVEENDRANATH.

BY ADV. SRI.T.M.SREEDHARAN
SRI.V.P.NARAYANAN

RESPONDENTS:
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1. **THE ASSISTANT COMMISSIONER (KVAT),**
   COMMERCIAL TAXES, SPECIAL CIRCLE, KANNUR.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, KOZHIKODE.

3. **THE INSPECTING ASSISTANT COMMISSIONER**
   (R.R.), COMMERCIAL TAXES, KANNUR.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.10907 2007-W

Dated this the 29th day of March, 2007

JUDGMENT

The petitioner attacks Ext.P6 order passed by the second respondent appellate authority, disposing of its stay application filed along with Ext.P2 appeal. The said appeal is filed against Ext.P1 assessment order which is amended as per Ext.P1 (a). The petitioner attacks various additions stating that they were made without any basis. Special reference is made to an addition of about Rs.6 lakhs in the amount spent for constructing a new building. According to the petitioner, it is a capital investment and does not form part of the turnover in the trade. So, the petitioner prays for stay on more liberal terms.

2. I heard the learned Government Pleader for the respondents also.

3. Even assuming that the contention of the petitioner regarding the addition of the amount spent for construction of the building is accepted, still I feel that the same will not take the liability below 50%. The other contentions are usual general contentions which cannot be gone into in this writ petition. The appellate authority can examine the correctness of the same and grant relief to the petitioner. So, I feel that the direction to pay 50% of the disputed tax pending appeal cannot be described as arbitrary or irrational warranting interference by this Court under Article 226 of the Constitution of India. But, the petitioner has been granted only one week's

time to pay the 50% of the amount. So, I feel that it is just and proper to extend the time upto 16-4-2007. It is ordered accordingly. The petitioner shall furnish security for the balance amount before 30-4-2007.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS